

SENATE BILL NO. 370

INTRODUCED BY PERRY, COHENOUR, LARSEN, POMNICHOWSKI, TUTVEDT

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING AN OPENCUT FUND AND ANNUAL FEE; EXEMPTING GOVERNMENT OPENCUT OPERATIONS FROM THE OPENCUT FEE; RESTRICTING THE USE OF THE OPENCUT FUNDS; EXEMPTING OPENCUT OPERATIONS FROM THE RESOURCE INDEMNITY AND GROUND WATER ASSESSMENT TAX; AMENDING SECTIONS 15-38-104, 15-38-113, 82-4-405, 82-4-424, AND 82-4-437, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Opencut fund -- use of fund.** (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the opencut fund.

(2) There must be deposited in the account money received from the fee established in 82-4-437.

(3) (a) Subject to subsection (3)(b), money in the fund may be spent only on processing permit applications and amendments, inspecting opencut operations, and reviewing proposed bond releases.

(b) The provisions of subsection (3)(a) apply only to opencut operations that pay the fee required by 82-4-437.

Section 2. Section 15-38-104, MCA, is amended to read:

"15-38-104. Tax on mineral production. (1) Except as provided in 15-38-113 and subsections (2) through (5) of this section, the annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing a mineral is \$25, plus an additional amount computed on the gross value of product that was derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1/2 of 1% of the amount of gross value of product at the time of extraction from the ground, if in excess of \$5,000. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners may be deducted from any settlements under the lease or leases or division of proceeds orders or other contracts.

(2) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing:

(a) talc is \$25 plus an additional amount computed on the gross value of product for talc derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 4% of the gross value of product in excess of \$625; and

(b) coal is \$25 plus an additional amount computed on the gross value of product for coal produced in Montana during the calendar year immediately preceding at the rate of 0.4% of the gross value of product in excess of \$6,250.

(3) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing vermiculite is \$25 plus an additional amount computed on the gross value of product for vermiculite derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 2% of the gross value of product in excess of \$1,250.

(4) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing limestone for the production of quicklime is \$25 plus an additional amount computed on the gross value of product for limestone derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 10% of the gross value of product in excess of \$250.

(5) The annual tax to be paid by a person engaged in or carrying on the business of mining, extracting, or producing industrial garnets and associated byproducts is \$25 plus an additional amount computed on the gross value of product for industrial garnets and associated byproducts derived from the business work or operation within this state during the calendar year immediately preceding at the rate of 1% on the gross value of product in excess of \$2,500."

Section 3. Section 15-38-113, MCA, is amended to read:

"15-38-113. Exemption from resource indemnity and ground water assessment tax. The following persons are exempt from the resource indemnity and ground water assessment tax:

(1) ~~A a person who has paid the license tax on a metal mine under the provisions of Title 15, chapter 37, part 1, is exempt from the resource indemnity and ground water assessment tax.~~

(2) ~~A a person who has paid the tax on oil and natural gas production under the provisions of Title 15, chapter 36, or, part 3, is exempt from the resource indemnity and ground water assessment tax.~~

(3) a person who holds a permit pursuant to Title 84 82, chapter 4, part 4, and is subject to the fee provided for in 82-4-437(2); OR

(4) A COUNTY, CITY, OR TOWN THAT HOLDS A PERMIT PURSUANT TO TITLE 82, CHAPTER 4, PART 4."

SECTION 4. SECTION 82-4-405, MCA, IS AMENDED TO READ:

"82-4-405. Inapplicability to government. ~~The (1) Except as provided in subsection (2), the provisions~~ of this part relating to fees or bonds do not apply to the federal government or its agencies, the state of Montana, counties, cities, or towns.

(2) Counties, cities, and towns are responsible for the fee required pursuant to 82-4-437(2)."

SECTION 5. SECTION 82-4-424, MCA, IS AMENDED TO READ:

"82-4-424. Receipt and expenditure of funds -- disposition of penalties and other money. (1) The department may receive any federal funds, state funds, or any other funds for the reclamation of affected land. The department may cause the reclamation work to be done by its employees, by employees of other governmental agencies, by soil conservation districts, or through contracts with qualified persons.

(2) All penalties and other money paid under the provisions of this part, except annual fees, must be deposited in the environmental rehabilitation and response account in the state special revenue fund provided for in 75-1-110. Funds held by the department as bond or as a result of bond forfeiture that are no longer needed for reclamation and for which the department is not able to locate a surety or other person who owns the funds after diligent search must be deposited in the environmental rehabilitation and response account in the state special revenue fund."

Section 6. Section 82-4-437, MCA, is amended to read:

"82-4-437. Annual report -- fee. (1) For each permitted operation, the operator shall file an annual report on a form furnished by the department. The report must contain the information and be submitted at times provided in rules of the board.

~~(2) (A) Except as provided in 82-4-405, each~~ (2) (A) EACH EXCEPT AS PROVIDED IN SUBSECTION (2)(B), EACH permitted operation shall submit with the annual report a fee of 2.5 cents per cubic yard of material mined during the period covered by the report.

(B) PERMITTED OPERATIONS THAT MINE, EXTRACT, OR PRODUCE BENTONITE ARE NOT SUBJECT TO THE FEE PROVIDED IN THIS SECTION."

NEW SECTION. **Section 7. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 82, chapter 4, part 4, and the provisions of Title 82, chapter 4, part 4, apply to [section 1].

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3 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2009.

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5 NEW SECTION. SECTION 9. RETROACTIVE APPLICABILITY. THE EXEMPTION PROVIDED FOR IN 15-38-113(4)
6 APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO TAX YEARS BEGINNING AFTER DECEMBER 31, 2000, FOR
7 COUNTIES, CITIES, AND TOWNS.

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